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\*\*E-filed 9/28/06\*\*

7 Attorneys for Plaintiffs Kermit Baker and Carolyn Adduci

8 [Additional counsel appear on signature page]

9 UNITED STATES DISTRICT COURT  
10 NORTHERN DISTRICT OF CALIFORNIA  
11 SAN JOSE DIVISION

12 KERMIT BAKER, Derivatively on Behalf of )  
BLUE COAT SYSTEMS, INC., )

13 Plaintiff, )

14 vs. )

15 BRIAN M. NESMITH, MICHAEL A. )  
16 MALCOLM, DAVID A. DE SIMONE, )  
ROBERT P. VERHEECKE, ALAN L. )  
17 ROBIN, JAMES A. BARTH, DAVID W. )  
HANNA, JAY W. SHIVELY, III, TIMOTHY )  
18 HOWES, ANDREW S. RACHLEFF, )  
STUART G. PHILLIPS, MARC L. )  
19 ANDREESSEN, and PHILIP J. KOEN, )

20 Defendants, )

21 – and – )

22 BLUE COAT SYSTEMS, INC., a Delaware )  
corporation, )

23 Nominal Defendant. )  
24 )  
25 )  
26 )  
27 )  
28 )

Case No. 5:06-cv-04809-JF (RS)

Judge: Hon. Jeremy Fogel

STIPULATION CONSOLIDATING  
ACTIONS, APPOINTING LEAD COUNSEL  
AND RELATED MATTERS AND  
[PROPOSED] ORDER THEREON

[Caption continued on following page]

1 CAROLYN ADDUCI, Derivatively on Behalf )  
2 of BLUE COAT SYSTEMS, INC., )

3 Plaintiff, )

4 vs. )

5 BRIAN M. NESMITH, MICHAEL A. )  
6 MALCOLM, DAVID A. DE SIMONE, )  
7 ROBERT P. VERHEECKE, ALAN L. )  
8 ROBIN, JAMES A. BARTH, DAVID W. )  
9 HANNA, JAY W. SHIVELY, III, TIMOTHY )  
10 HOWES, ANDREW S. RACHLEFF, )  
11 STUART G. PHILLIPS, MARC L. )  
12 ANDREESSEN, and PHILIP J. KOEN, )

13 Defendants, )

14 – and – )

15 BLUE COAT SYSTEMS, INC., a Delaware )  
16 corporation, )

17 Nominal Defendant. )  
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Case No. 5:06-cv-05453-HRL

Judge: Hon. Howard R. Lloyd

1 WHEREAS, there are presently two related shareholder derivative actions against certain of  
2 the officers and directors of Blue Coat Systems, Inc. ("Blue Coat") on file in this Court.

3 WHEREAS the two Blue Coat shareholder derivative actions arise out of the same alleged  
4 transactions and occurrences and involve the same or substantially similar alleged issues of fact and  
5 law, and, therefore, should be consolidated for all purposes.

6 WHEREAS, in an effort to assure consistent rulings and decisions and the avoidance of  
7 unnecessary duplication of effort, all of the counsel for parties in the related Blue Coat shareholder  
8 derivative actions currently on file in this Court enter into this stipulation. The counsel are: (1)  
9 Robbins Umeda & Fink, LLP, The Weiser Law Firm, P.C. and the Law Offices of Bruce G. Murphy  
10 on behalf of plaintiff Kermit Baker; (2) Robbins Umeda & Fink, LLP on behalf of plaintiff Carolyn  
11 Adduci; and (3) Wilson Sonsini Goodrich and Rosati on behalf of individual defendants Brian M.  
12 Nesmith, Michael A. Malcolm, David A. De Simone, Robert P. Verheeecke, Alan L. Robin, James A.  
13 Barth, David W. Hanna, Jay W. Shively, III, Timothy Howes, Andrew S. Rachleff, Stuart G.  
14 Phillips, Marc L. Andreessen, Philip J. Koen and nominal defendant Blue Coat (the individual  
15 defendants and nominal defendant are collectively referred to as "defendants").

16 WHEREAS the individual defendants and nominal defendant take no position as to the  
17 appointment of Kenneth Baker and Carolyn Adduci as lead plaintiffs and Robbins Umeda & Fink,  
18 LLP and The Weiser Law Firm, P.C. as co-lead counsel.

19 WHEREAS, the parties agree that it would be duplicative and wasteful of the Court's  
20 resources for defendants named in plaintiffs' shareholder derivative actions to have to respond to the  
21 individual complaints prior to the agreed upon consolidation. Therefore, the parties agree that  
22 defendants need not respond to the individual complaints that have already been filed in this Court  
23 until after the actions have been consolidated and a Consolidated Complaint has been filed.

24 \* \* \*

25 Now, therefore, the Parties Stipulate and the Court ORDERS as follows:

26 **I. CONSOLIDATION OF THE RELATED SHAREHOLDER DERIVATIVE ACTIONS**

27 The following actions are hereby related and consolidated for all purposes, including pre-trial  
28 proceedings and trial:

<u>Abbreviated Case Name</u>	<u>Case Number</u>	<u>Date Filed</u>
<i>Baker v. NeSmith, et al.</i>	5:06-cv-04809-JF	August 8, 2006
<i>Adduci v. NeSmith, et al.</i>	5:06-cv-05453-HRL	September 5, 2006

## II. CAPTION OF CASES

Every pleading filed in these consolidated actions, or in any separate action included herein, shall bear the following caption:

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

IN RE BLUE COAT SYSTEMS, INC. DERIVATIVE LITIGATION	)	Lead Case No. 5:06-cv-04809-JF
	)	
	)	
This Document Relates To:	)	
	)	
ALL ACTIONS.	)	

## III. MASTER DOCKET

The files of these consolidated actions shall be maintained in one file under Master File No. 5:06-cv-04809-JF.

## IV. PLEADINGS AND MOTIONS

Plaintiffs shall file a Consolidated Derivative Complaint ("Complaint") no later than 60 days from the date of entry of this Order, unless otherwise agreed between the parties and approved by the Court, which shall be deemed the operative complaint, superseding all complaints filed in any of the actions consolidated hereunder. Defendants shall have 60 days after the filing and service of the Complaint to file a responsive pleading(s). In the event that defendants file and serve any motions directed at the Complaint, plaintiffs shall file and serve their opposition within 45 days after the service of defendants' motion. If defendants file and serve a reply(ies) to plaintiffs' opposition, they will do so within 25 days after plaintiffs' service of the opposition. Counsel agree to confer to select a hearing date.

1 **V. ORGANIZATION OF COUNSEL**

2 The Co-Lead Counsel for plaintiffs for the conduct of these consolidated actions is:

3 ROBBINS UMEDA & FINK, LLP  
4 BRIAN J. ROBBINS  
5 MARC M. UMEDA  
6 STEVEN J. SIMERLEIN  
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11 THE WEISER LAW FIRM, P.C.  
12 ROBERT B. WEISER  
13 121 N. Wayne Avenue, Suite 100  
14 Wayne, PA 19087  
15 Telephone: 610/225-2677  
16 Facsimile: 610/225-2678

17 Plaintiffs' Co-Lead Counsel shall have authority to speak for plaintiffs in matters regarding  
18 pre-trial procedure, trial and settlement negotiations and shall make all work assignments in such  
19 manner as to facilitate the orderly and efficient prosecution of this litigation and to avoid duplicative  
20 or unproductive effort.

21 Plaintiffs' Co-Lead Counsel shall be responsible for coordinating all activities and  
22 appearances on behalf of plaintiffs and for the dissemination of notices and orders of this Court. No  
23 motion, request for discovery, or other pre-trial or trial proceedings shall be initiated or filed by any  
24 plaintiffs except through plaintiffs' Co-Lead Counsel.

25 Plaintiffs' Co-Lead Counsel also shall be available and responsible for communications to  
26 and from this Court, including distributing orders and other directions from the Court to counsel.  
27 Plaintiffs' Co-Lead Counsel shall be responsible for creating and maintaining a master service list of  
28 all parties and their respective counsel.

29 Defendants' counsel may rely upon all agreements made with any of plaintiffs' Co-Lead  
30 Counsel, or other duly authorized representative of plaintiffs' Co-Lead Counsel, and such agreements  
31 shall be binding on plaintiffs.

32 **VI. NEWLY FILED OR TRANSFERRED ACTIONS**

33 This Order shall apply to each case, arising out of the same or substantially the same  
34 transactions or events as these cases, which is subsequently filed in, removed to or transferred to this

1 Court.

2 When a case which properly belongs as part of the *In re Blue Coat Systems, Inc. Derivative*  
3 *Litigation*, Lead Case No. 5:06-cv-04809-JF, is hereafter filed in the Court or transferred here from  
4 another court, this Court requests the assistance of counsel in calling to the attention of the clerk of  
5 the Court the filing or transfer of any case which might properly be consolidated as part of the *In re*  
6 *Blue Coat Systems, Inc. Derivative Litigation*, Lead Case No. 5:06-cv-04809-JF, and counsel are to  
7 assist in assuring that counsel in subsequent actions receive notice of this Order.

8 IT IS SO STIPULATED.

9 DATED: September 17, 2006

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14 By:   
STEVEN J. SIMERLEIN

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26 Counsel for Plaintiff Kermit Baker

1 DATED: September 19, 2006

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11 By:   
12 REBECCA A. MITCHELLS

13 Counsel for defendants Brian M. Nesmith,  
14 Michael A. Malcolm, David A. De Simone,  
15 Robert P. Verheecke, Alan L. Robin, James A.  
16 Barth, David W. Hanna, Jay W. Shively, III,  
17 Timothy Howes, Andrew S. Rachleff, Stuart  
18 G. Phillips, Marc L. Andreessen, Philip J.  
19 Koen and nominal defendant Blue Coat

20 ORDER

21 PURSUANT TO STIPULATION, IT IS SO ORDERED.

22 9/22/06  
23 DATED

24   
25 HONORABLE JEREMY FOGEL  
26 U.S. DISTRICT COURT JUDGE

**CERTIFICATE OF SERVICE**

I, the undersigned, declare:

1. That declarant is and was, at all times herein mentioned, a citizen of the United States and a resident of the County of San Diego, over the age of 18 years, and not a party to or interest in the within action; that declarant's business address is 610 West Ash Street, Suite 1800, San Diego, California 92101.

2. That on September 19, 2006, declarant served STIPULATION CONSOLIDATING ACTIONS, APPOINTING LEAD COUNSEL AND RELATED MATTERS AND [PROPOSED] ORDER THEREON by depositing a true and correct copy thereof in a United States mailbox at San Diego, California in a sealed envelope with postage thereon fully prepaid and addressed to the parties listed on the attached Service List.

3. That there is a regular communication by mail between the place of mailing and the places so addressed.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this September 19, 2006, at San Diego, California.

  
DAFNE M. MAYTORENA



***Baker v. Nesmith, et al.*, No. 06-04809-JF**  
***Adduci v. Nesmith, et al.*, No. 06-cv-05453-JF**

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